

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NIKKI POOSHS,

Plaintiff,

vs.

ALTRIA GROUP, INC., *et al.*

Defendants.

Case No. C 04-01221-PJH-JCS

**PROPOSED ORDER RE: PAGELINE
DESIGNATIONS AND OBJECTIONS [DR.
COOK]**

Judge: Honorable Phyllis J. Hamilton

The Court has reviewed the parties January 19, 2015 Joint Submission regarding the page and line designations, counter designations and objections to the deposition of Dr. Christopher John Cook taken on July 12, 22, 28 and August 17, 2011. The Courts rulings are as follows:

I. Christopher John Cook (July 21, 2011 Transcript) (Volume 1)

A. Defendants' Objections to Plaintiff's Designations

<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
10:12-12:04	No objection	
13:08-13:11	No objection	
13:17-22	No objection	
24:06-25:25	No objection	
26:02-26:08	No objection	
26:11-28:02	No objection	

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1			
2	28:04-07	No objection	
3	29:01-08	No objection	
4	29:16-30:06	No objection	
5	31:01-09	No objection	
6	31:11-31:24	No objection	
7	34:8-11; 34:18-35:3	1/6/16 Late designation – previously not included in Dkt. 397; Post-1987; 34:8-11 and 34:18 previously excluded by the Court (Dkt. 392)	Sustained
8			
9			
10	43:14-44:14	Calls for Legal Conclusion; Beyond the scope of Expertise; Cumulative; Irrelevant; Post-1987	Sustained
11			
12			
13	44:15-46:12	No objection	
14	46:14-19	No objection	
15	51:14-17	No objection	
16	51:19-21	No objection	
17	51:23-52:08	No objection	
18	52:10-52:17	No objection	
19	52:19-24	Lack of Foundation; Speculative; Unfair Prejudice; Post-1987; Implied Preemption	Sustained
20			
21	53:1-4; 53:6-10	Argumentative; Speculative; Unfair Prejudice; Irrelevant; Confusion; Post-1987; Implied Preemption	Sustained
22			
23			
24	53:13-20; 53:22-54:6	Argumentative; Speculative; Unfair Prejudice; Irrelevant; Confusion; Post-1987; Implied preemption	Sustained
25			
26			
27			
28	60:1-60:17	2	Sustained
	65:11-16		CASE NO. C 04-01221-PJH-JCS Sustained
26		Company Documents	
27			
28		3	Objections Sustained
	Page 3 is missing		CASE NO. C 04-01221-PJH-JCS

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1			
2	73:14-19; 74:1-3; 74:5-74:23; 75:1-5	Irrelevant; Cumulative; Hearsay; Document speaks for itself; Meaning or Intent of Company Documents	<i>Sustained</i>
3			
4	75:08-23 76:01-21 76:24-77:25 78:02-12 78:14-79:02 79:05-12 79:14-22 79:24-80:25 81:02-17 81:19-82:05 82:07-11 82:17-83:05 85:11-20	No objection	
5			
6			
7			
8			
9			
10			
11	85:21-86:25	Irrelevant; Lack of Foundation; Improper designation; Non-Testimonial Material; Cumulative; Unfair Prejudice	<i>Sustained</i>
12			
13			
14	87:1-88:10 88:21-89:10	No objection	
15			
16	89:11-22	No objection	
17	89:24-90:3	No objection	
18	90:10-91:11	No objection	
19	91:16	No Objection	
20	91:21-92:7	Irrelevant; Unfair Prejudice; Cumulative; Meaning or Intent of Company Documents; Unsegregated Aggregate Harm; Non- Testimonial Material	<i>Sustained</i>
21			
22			
23	97:18-98:6	No objection	
24	98:7-100:4	No objection	
25	100:5-15	No objection	
26	100:17-24	No objection	
27			
28			

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1			
2	101:1-101:19	No objection	
3	101:20-102:10	No objection	
4	102:11-12	No objection	
5	102:13-17	No objection	
6	102:19-24	No objection	
7	103:2-3	No objection	
8	106:10-107:12	No objection	
9	107:14-108:11		
10	108:13-108:13		
11	108:15-20		
12	108:22-23		
13	109:12-14	Irrelevant; Unfair Prejudice; Lack of Foundation; Document speaks for itself; Asked and Answered; Vague; Meaning or Intent of Company Documents	<i>Sustained</i>
14	109:16-20	Irrelevant; Unfair Prejudice; Lack of Foundation; Document speaks for itself; Vague; Meaning or Intent of Company Documents	<i>Sustained</i>
15			
16			
17	110:14-19	No objection	
18	111:15-112:10		
19	112:12-13		
20	112:14-17; 112:19-20	Irrelevant; Lack of Foundation; Document speaks for itself; Cumulative; Unfair Prejudice; Meaning or Intent of Company Documents	<i>Sustained</i>
21			
22	112:21-113:6	No objection	
23	113:7-14; 113:16-19	Irrelevant; Lack of Foundation; Document speaks for itself; Cumulative; Unfair Prejudice; Meaning or Intent of Company Documents	<i>Sustained</i>
24			
25			

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1			
2	113:21-114:1	Irrelevant; Lack of	
3		Foundation; Cumulative;	
4		Unfair Prejudice; Meaning or	<i>Sustained</i>
5	114:3-8	Documents	
6		Irrelevant; Lack of	
7		Foundation; Document speaks	<i>Sustained</i>
8		for itself; Meaning or Intent of	
9		Company Documents	
10	114:10-13	Irrelevant; Lack of	
11		Foundation; Document speaks	<i>Sustained</i>
12		for itself; Express Preemption	
13		(Post-July 1, 1969); Meaning	
14		or Intent of Company	
15		Documents	
16	121:19-122:25	No objection	
17	123:1-6	Irrelevant; Unfair Prejudice;	
18		Document speaks for itself;	
19		Cumulative; Williams/State	<i>Sustained</i>
20		Farm (Nexus); Meaning or	
21		Intent of Company	
22		Documents	
23	135:16-136:14		
24	136:16-137:16		
25	139:1-23		
26	143:20-144:03		
27	144:13-16		
28	144:20-145:16		
	145:05-16		
	145:18-146:07		
	146:10-147:11	No objection	
	147:12-19; 147:21-23	Irrelevant; Lack of	
		Foundation; Document speaks	
		for itself; Cumulative; Unfair	
		Prejudice; Williams/State	<i>Sustained</i>
		Farm (Nexus); Meaning or	
		Intent of Company	
		Documents	
	147:24-149:6	No objection	

B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 1)

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
50:5-8	No objection	
50:10-14	No objection	
54:11-14	No objection	
54:16-18	No objection	

II. Christopher John Cook (July 22, 2011 Transcript) (Volume 2)

A. Defendants' Objections to Plaintiff's Designations (Volume 2)

<i>Plaintiff's Designations</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
282:2-283:17 283:19-20	No objection	

B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 2)

NONE

III. Christopher John Cook (August 9, 2011 Transcript) (Volume 3)

A. Defendants' Objections to Plaintiff's Designations (Volume 3)

NONE

B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 3)

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
518:12-519:24	Irrelevant, cumulative, unfairly prejudicial (403)	<i>Overruled</i>
548:21-24	No objection	
549:2-6	No objection	
550:5-551:3	No objection	
551:5-552:9	No objection	
552:21-553:22	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
554:17-555:11	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
555:23-556:9	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
556:11-558:14	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
558:16	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
558:18-19	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
558:21-559:14	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
559:16-560:20	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
560:22-561:5	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
562:23-563:11	No objection	
563:20-564:25	No objection	
565:3-10	No objection	
569:19-570:18	No objection	
570:21-572:22	No objection	

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
572:24	No objection	
573:17-574:11	No objection	
574:15-16	No objection	
574:18-25	Irrelevant, unfairly prejudicial (403)	<i>Overruled</i>
575:4-6	Irrelevant, unfairly prejudicial (403)	<i>Overruled</i>
575:9-10	Irrelevant, unfairly prejudicial (403)	<i>Overruled</i>
575:12-576:7	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
576:9-24	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
577:1-578:1	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
578:3-10	No objection	
578:12-17	No objection	
578:19-579:6	No objection	
579:8-580:11	No objection	
580:13	No objection	
614:23-616:15	No objection	
616:17-22	No objection	
616:24-617:18	No objection	
617:20-618:14	No objection	
618:16-619:2	No objection	
619:4-14	No objection	
619:16-622:10	No objection	
622:12-623:24	No objection	
624:1-16	No objection	

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
624:18-625:20	No objection	
625:23-626:13	No objection	
626:15-627:6	Irrelevant, unfairly prejudicial (403)	<i>Sustained</i>
627:8-628:23	No objection	
628:25-630:13	No objection	
633:13-634:10	No objection	
634:12-635:13	No objection	
635:15-24	No objection	
636:3-11	No objection	
636:13-637:14	No objection	
637:20	Objection, no question pending	<i>Overruled</i>
637:21-638:6	No objection	
638:8-639:13	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
639:16-640:2	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
640:5-15	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
640:17	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
640:19-641:5	Irrelevant, unfairly prejudicial, hearsay, lack of foundation	<i>Sustained</i>
641:7-642:9	Irrelevant, unfairly prejudicial (403), hearsay, lack of foundation	<i>Sustained</i>
642:17-23	No objection	
642:25-643:5	No objection	
643:9-16	No objection	
643:18-25	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
644:6-645:10	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
645:12-18	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
646:3-11	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
646:19-647:18	Irrelevant, unfairly prejudicial (403), hearsay	<i>Sustained</i>
647:24-648:8	No objection	
718:2-719:8	Irrelevant, unfairly prejudicial (403), design evidence	<i>Overruled</i>

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
719:12-14	Irrelevant, unfairly prejudicial (403), design evidence	<i>Overruled</i>
719:16	Irrelevant, unfairly prejudicial (403), design evidence	<i>Overruled</i>
719:20-720:17	Irrelevant, unfairly prejudicial (403), design evidence	<i>Overruled</i>
720:25-721:25	Irrelevant, unfairly prejudicial (403), design evidence	<i>Overruled</i>

IV. Christopher John Cook (August 17, 2011 Transcript) (Volume 4)

A. Defendants' Objections to Plaintiff's Designations (Volume 4)

<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
737:14-739:14	Irrelevant; Lack of Foundation; Unfair Prejudice; Argumentative; Vague; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative; Nontestimony material; Mischaracterizes prior testimony; Cumulative	<i>Sustained</i>
757:7-19	Irrelevant; Lack of Foundation; Unfair Prejudice; Asked and Answered; Non-testimony material; Argumentative; Cumulative; Meaning or Intent of Company Documents	<i>Sustained</i>
757:21	Irrelevant; Unfair Prejudice; Argumentative; Cumulative; Post-1987	<i>Sustained</i>

<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
808:7-809:16	Irrelevant; Unfair Prejudice; Inflammation; Speculation; Non-testimony material; Design Defect No Longer At Issue In Case; Meaning or Intent of Company Documents	<i>Sustained</i>
809:18-810:3	Irrelevant; Unfair Prejudice; Non-testimony material; Meaning or Intent of Company Documents; Mischaracterizes testimony	<i>Sustained</i>
810:5-15	Irrelevant; Unfair Prejudice; Non-testimony material; Meaning or Intent of Company Documents; Post-1987	<i>Sustained</i>
810:17-811:4	Irrelevant; Unfair Prejudice; Argumentative; Meaning or Intent of Company Documents; Post-1987	<i>Sustained</i>
811:6-8	Irrelevant; Unfair Prejudice; Argumentative; Misleading; Post-1987	<i>Sustained</i>
927:21-928:4	Irrelevant; Lack of Foundation; Unfair Prejudice; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative; Document speaks for itself	<i>Sustained</i>
929:5-9	Irrelevant; Lack of Foundation; Unfair Prejudice;; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative	<i>Sustained</i>
937:4-23	Irrelevant; Unfair Prejudice; Lack of Foundation; Speculative; Argumentative; Cumulative; Williams/State Farm (Lawful conduct); Post-1987; Express Preemption (Post-July 1, 1969); Document speaks for itself; Meaning and intent of company document	<i>Sustained</i>

<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
937:25-938:10	Irrelevant; Unfair Prejudice; Lack of Foundation; Express Preemption (Post-July 1, 1969); Meaning and intent of company document; First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
938:12-16	Irrelevant; Unfair Prejudice; Argumentative; Meaning and intent of company document; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
938:18-939:1	Irrelevant; Unfair Prejudice; Lack of Foundation; Argumentative; Express Preemption (Post-July 1, 1969); Meaning and intent of company document; First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
939:3-6	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
939:8-18	Irrelevant; Unfair Prejudice; Asked and Answered; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
939:20-940:2; 940:4-8	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
940:10-18	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus)	<i>Sustained</i>


<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
940:20-941:3; 941:5-17; 941:19-942:1	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus); Meaning or Intent of Company Documents	<i>Sustained</i>
942:3-10	Irrelevant; Unfair Prejudice; Argumentative; Inflation; Lack of Foundation; Express Preemption (Post-July 1, 1969); Meaning or Intent of Company Documents	<i>Sustained</i>
942:12-19; 942:21-23	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus)	<i>Sustained</i>

B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 4)

NONE

IT IS SO ORDERED.

Dated: January 20, 2016.


PHYLLIS J. HAMILTON
United States District Judge